Mr. K. K. Kuruvilla : May I know from where the Excise Commissioner got this information ?

Mr. M. P. Joseph : From many people who have gone to those places and had experience in drinking beer in the way mentioned by me. I would sincerely ask the honourable members if they would deny themselves the pleasure of having a glass of light wine or a glass of champagne if offered free. (*Laughter.*) Mr. Kuruvilla said that he has denied the pleasure a hundred times. What I wish to say is that drink is not an evil in itself, but that the evil exists in its abuse. I do not want to deal upon the nutritive quality of toddy and other liquors. But what I want to press before this House is that you should educate public opinion against drink, before launching prohibition.

President : Order, order, the allotted time has lapsed.

The question that Government be granted a sum of Rs. 6,90,130 under Demand II—Excise Department, was put and carried.

The grant was made.

DEMAND NO. III—ADMINISTRATION OF JUSTICE.

Mr. Puthupalli S. Krishna Pillai (*Legal Remembrancer to Government.*) : Sir, I beg to move for a grant not exceeding Rs. 11,25,100 under Demand III—Administration of Justice.

Mr. V. Sankara Menon (*Trivandrum and Nedumangad cum Chirayinkil*) : Sir, I wish to make a few observations in continuation of what I have made yesterday in regard to the Civil and Criminal administration in the State.

I would again reiterate my emphatic protest against any suggestion of inferiority of our High Court to any courts in British India or elsewhere. Our High Court is as perfect and as well equipped as any other High Court in other parts of India. But, at the same time, I would not forget that it has also some drawbacks, namely, that of delay, and I would suggest that that defect should be remedied as soon as possible, as this has begun to affect very seriously the interests of the people. For that purpose, I would make the following suggestions, which I hope will go to remedy, to some extent, the evil effects of the delay in the working of the administration of that department.

Firstly, I would suggest that the small-cause side and the execution side of the original cases may be separated from the original work and they may be constituted separately for carrying out that side of the work. Nearly almost all the original cases have been decided comparatively in a shorter time than the actual execution of the decrees concerned in those cases. I know of instances in which even after a lapse of twelve years the parties were not able to enjoy the fruits of the decree that they had obtained. I do not blame any officer concerned with the administration of the work.

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[Mr. V. Sankara Menon.]

I would rather condemn the system that is in vogue in regard to this branch of the administration. The Munsiffs are hampered with the work of numerous small-cause cases every day and almost half of their time is taken up in the disposal of those cases. Of the remaining part, more than half would be taken up by execution work. Then only a small portion remains for looking after the remaining cases. This accounts for the delay. In the case of disposal of original cases, I would suggest that the present practice of adjourning the case for framing of issues for a number of times, may be put an end to. I understand that in Cochin, soon after a written statement is filed, no adjournment is made to frame the issues. That saves a lot of time in the disposal of original cases. If we separate the execution side and the small-cause side, I think, it will save much delay in the disposal of the cases.

With these observations, I support the demand for the grant under this Department.

Mr. M. K. Ananthasiva Aiyer: Sir, I have also absolutely no hesitation in saying that the judiciary in Travancore is independent and above suspicion. If any evil can be attributed to our judiciary, it is the most deplorable and proverbial 'Laws delays'. This delay in the administration of justice has affected the finance of the population in general. In order that the financial condition of the people in general be sound, there should be a free flow of money from one hand to another hand. The present attitude of the judiciary towards the decree-holders is most undesirable. The question of realising any amount through the Courts have become almost an impossibility. In fact, debtors take undue advantage of this leniency on the part of the civil courts and they even ask their creditors to go to the Courts and realise the amount. I myself have experienced the difficulty. Even a respectable debtor who owes money to me compelled his document to be taken before the Court. When I asked him why he should urge me to do that, he said that he could pay me the amount in twenty years' time. The result is that a person who wants some money for the purpose of marrying his daughter or for some enterprise is not able to procure the same.

Another difficulty is that a certain set of debtors, who are incorrigible and heavily involved in debts and who have no hope of retaining the property to themselves, drag on the case they are involved in to any extent thinking that they could take the produce of the properties in their possession till the time when the properties are bid in auction and delivered to the purchaser, and neglect the preservation of the properties. But when the property comes

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into the possession of another, it will be a desert. This means that the land in the possession of the man has deteriorated because of the 'laws delays'.

Sir, the Government are very anxious to see that the whole of Travancore is industrialised. Who are the people who could finance these plans? Are the Government going to finance every cottage industry? Government have been helping every industry that has been started in Travancore. The Government wanted the Sugar factory to be taken up by Travancoreans. But the Government had to lease it to an outsider. Similarly, the Government wanted to entrust the Rubber Factory to the people of Travancore, but who was there to take up the institution? Whatever reforms may be introduced, and whatever attention the University may pay in the matter of industrialisation, I do not think that until and unless credit is restored in the country and the attitude of the civil courts changes, there is no hope of any upliftment of the Travancoreans.

The Government started the Credit Bank. The Government thought that the whole number of shares will be taken by Travancoreans. I had occasion to look into the list of shareholders of this Bank. But I am sorry to say that the number of Travancoreans in the list of the shareholders can be counted by the fingers. If the civil courts had done their duty properly we could have found more Travancoreans in the list of shareholders of the Travancore Credit Bank.

Another thing that I wish to refer is this. I do not agree with the honourable member Mr. Sankara Menon in saying that we should add to the number of courts. I would say that the present judicial officers are not working properly. That is my opinion. There is some reason for their not working. As. Mr. Kottoor Kunjukrishna Pillai pointed out yesterday, there is some sort of discouraging spirit in the minds of the present officers of the department that strangers are being brought in and placed above them. The recruitment of officers to the judiciary from outside, especially, to the higher ranks is not at all desirable. If members of the Bar have to be recruited, I would suggest, that they should be recruited as clerks in the department. They may then rise to the Bench. That is far better.

Mr. V. Sankara Menon: Is the member of opinion that the recruitment of members to the higher ranks of the judiciary from the Bar is conducive to the non-efficiency of the department?

Mr, M. K. Ananthasiva Aiyar: No, it is not on account of the non-efficiency. There is no incentive to the people in service for efficient working if outsiders are suddenly brought in and put above them. If due recognition is given to those who work earnestly, the judicial administration will be considerably improved.

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Mr. Kochikal P. Balakrishnan Tampi: Sir, I oppose the Demand. Sir, when a lady is complimented on her youthful look, it means that she is either old or is ageing. A similar inference, I trust, will not be drawn from the vaunted independence or integrity, or high character or abilities of the judiciary portrayed by Mr. Sankara Menon. I do not wish to say anything which will damage the independence or the high character of our judiciary. As a member of the legal profession, I think it is my duty to say nothing against the judiciary even though I find occasional lapses. But I would be untrue to the members of this House if I do not disclose that there is an impression, I do not say general, in certain quarters that the judiciary, not the whole but a part of it, has no sense of that independence which characterised it a decade ago. The fault may not be of any one individual. I do not want to discredit all the learned Judges of the highest sections in the judiciary. They are able; let them continue to discharge their duties till the rules of superannuation get hold of them or till they retire in due course. One thing that the Government must be very particular to note is that only very eminent men of proved ability in the profession should be recruited to the higher ranks.

So far as the lower ranks of the judiciary are concerned, I certainly repel the idea that they are lazy or idle. I know it is several years since my friend Mr. Ananthasiva Aiyar left the lucrative profession of law and took to the more lucrative profession of farming and money-lending. I also repel the idea that there is unavoidable delay in courts. Sir, Judges are trying their level best to hasten the disposal of cases. But, owing to the economic depression, the parties are not able to take steps in time, to cite witnesses, to adduce evidence. Therefore it is at the instance of the advocates or pleaders that courts are reluctantly compelled to put off the final disposal of cases. It will be calumny on the work of the Judges to say that they are delaying matters. In fact, now-a-days, the Munsiffs, the presiding officers of the civil courts in general, are the only set of officials who in many cases afford protection, to the hard-pressed and the oppressed poor, from the ravages, the exhorbitant claims, of money-lending interests.

Sir, speaking about the subordinate judiciary, I am sorry to have to observe that they too are not, now-a-days, showing the same courage, the same judicial independence, as they used to do before. I do not want to generalise; there may be stray instances of independent Judges. They show a pathetic resignation, partly owing to some sort of propaganda carried on by the Police, in criminal cases. Somehow or other the Police make these Judges or Magistrates feel that Government are interested in certain cases. I do not for a moment suggest that Government are interested

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(*Laughter*); and when the Police officer makes the Magistrate understand that Government are interested, human nature remaining what it is, when in some cases the transfer to another department on promotion as its head depends upon the favour of the executive—after all flesh is sweet—there is nothing to be surprised at the vacillation of even efficient, independent and capable judicial officers. Incompetent Government pleaders also seem to tend to that result. The *modus operand*, followed by these people is not to approach the Judge direct ; I do not know of any instance in which the Judge has been directly approached. Somehow, the suggestion is conveyed to the Judge that Government are awaiting with interest the report of the decision of a particular case, the progress it is making. The poor Judge realises that his future may depend upon his decision of the case. I know Judges looking pathetically at the advocates after deciding cases. I trust Government will understand my point in the spirit in which I am placing it before the House, and will make the judiciary understand that their promotion or preferment will depend entirely upon their deciding cases without fear or favour, and not upon their deciding in favour or against the Sirkar.

Sir, speaking about the judiciary, I cannot speak too strongly against the activities of certain Magistrates—not the subordinate Magistrates, the prim, little officer of the Secretariat who goes out as II Class or III Class Magistrate, but the higher magistracy—District Magistrates, who seem to be under the impression that they are doing yeoman service to Government by launching as many prosecutions as possible against all and sundry. Sir, I do not think any Government can be grateful to these Magistrates for what they are doing ; on the other hand, I should think that Government will often be embarrassed by the too kindly attentions of these District Magistrates. I know instances where poor coolies, poor labourers, small daily wage earners, have been given the dignity of State trials by these District Magistrates. Sir, it is these District Magistrates who are responsible for the impression, if any, outside, that Travancore is seething with political unrest and sedition. The fact is that there has been political discontent; a number of political meetings set up by touring politicians might have been held here and there; also, there might have been some organisation of political workers. But I can assure you, Sir, that there has never been, in Travancore, any instance of political crime, I do not forget instances where, in the wake of political agitation, there might have been acts of violence in some places. But cases of political violence or sedition, pure and simple, there have not been many. It is these Magistrates, these over-solicitous Magistrates, that have given the world the wrong impression that Travancore is seething with political crime.

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[Mr. Kochikal P. Balakrishnan Tampi.]

Therefore, Sir, I would appeal to Government to make it impossible for any member of the Judiciary to rise to any office in the executive line, and also to make them understand that they are expected to discharge their duties without fear or favour. Then only the Judiciary will get the position, in popular imagination, which they used to have till a few years ago.

Mr. James Fletcher: Sir, we are rightly proud of our Judiciary; it is not behind the Judiciary in any of the other States or in British India. Our best men are chosen for the Judicial Department; only tried men of character have been promoted to the High Court; and, from the Bar, only those who have been able to show their greatness both in character and in erudition, have been recruited to the Judiciary. We know that we have a very independent Judiciary. It has been said that there is a certain amount of delay in courts. Sir, in what place can we say there is no delay? Law's delay is proverbial and well known. But, if we compare the delay in the disposal of cases in Travancore, with the delay in the neighbouring Provinces of British India we find that our Courts compare most favourably. There is, I admit, some delay here, in execution, that is because of the dilatory tactics usually adopted at the execution stage. Evidently, that is what my honourable friend, Mr. Ananthasiva Aiyar, has been referring to. But, who is to be blamed and for that? The law relating to execution of decrees allows all such dilatory tactics, such as unnecessary number of notices and other proceedings; it is the Procedure Code that give handle for the judgement debtor to delay execution. For that, we cannot blame the judiciary.

There is one peculiar feature in Travancore. When a party fails, when a client is defeated in a case, invariably he throws the blame on some one else. He is not able to realise that his case might have been weak, or that there might have been lack of evidence. And, the one person who cannot defend himself in this matter is the Judge; therefore, very easily, the defeated party goes about complaining that the Judge is incapable, or dishonest, or lacks independence. This happens in criminal cases as well. Therefore, so far as Travancore is concerned, the complaint from certain quarters that the Judiciary is not independent, has no value whatsoever.

However, Sir, in regard to the question of delays in execution, it is the duty of Government to see that every effort is made to expedite the execution proceedings of decrees so that the fruits of decrees may be reaped quickly and easily. People engaged in commerce have necessarily and naturally to get their decrees quickly

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executed, and their dues realised without any delay. People from outside should not be left to doubt or hesitation in dealing with businessmen in Travancore; the impression should not be created in them that, in Travancore Courts, the realisation of their dues, would take years. I am sure Government will take the necessary action in the matter.

Mr. C. N. Thuppan Namboodiri: സർ, ഞാൻ ഈ ഡിമാൻറിനെ അനുകൂലിക്കുന്നു. ഏതാനും ചില സംഗതികൾ ഈ സഭയുടെ ദൃഷ്ടിയിൽ കൊണ്ടുവരണമെന്നുള്ളതാണ് എന്റെ ഉദ്ദേശം. സിവിൽ കോടതികൾ സംബന്ധിച്ചു ജനങ്ങൾ അനുഭവിച്ചുകൊണ്ടിരിക്കുന്ന കഷ്ടപ്പാടുകൾ ക്രമത്തിലധികം ഉണ്ടെന്നു കൗൺസിൽമുഖേനയും മറ്റു പലവിധത്തിലും ഗവണ്മെൻറിന്റെ ദൃഷ്ടിയിൽ കൊണ്ടുവന്നിട്ടുണ്ട്. ആ സംഗതികളെത്തന്നെ വീണ്ടും ഗവണ്മെൻറിനേയും ഈ കൗൺസിലിനേയും ഉൽബോധിപ്പിക്കണമെന്നാണു ഞാൻ ഈ അവസരത്തിൽ വിചാരിക്കുന്നത്. ൫൦ വയസ്സു പ്രായമുള്ള ഒരാൾ ഒരു കേസ് സിവിൽ കോടതിയിൽ ഫയലാക്കിയാൽ അയാൾക്ക് ൬൫ വയസ്സു ആയതിനുശേഷവും ആകേസിനു ഒരു തീരുമാനം ഉണ്ടാകാത്ത ഒരു രീതിയാണ് ഇന്നു സിവിൽകോടതികളിൽ നടക്കുന്നത്. രാജ്യത്തു കൊടുക്കൽ വാങ്ങൽ ശരിയായി നടന്നുകൊണ്ടിരുന്നാൽ മാത്രമേ ജനങ്ങൾക്കു സുഭിക്ഷത ഉണ്ടാകുകയുള്ളൂ. എന്നാൽ ഇപ്പോൾ ഒരാളിനോടു ൫൦ രൂപാ കടം ചോദിച്ചാൽ ഇല്ലെന്നതന്നെ പറയും. കൊടുത്താൽ തിരിയെ കിട്ടുകയില്ല. അതുകൊണ്ടാണ് ഇല്ലെന്നു പറയുന്നത്. അങ്ങനെയാണ് കോടതികൾ വിധിക്കുന്നതും. സിവിൽ കോടതികളിൽ വിധികൽപ്പിക്കുന്നതിന് കാലതാമസം വരുത്തരുതെന്ന് ഞാൻ ആദ്യമായി പറഞ്ഞുകൊള്ളട്ടെ.

കോർട്ട് ഫീസ് സംബന്ധിച്ച് പരിശോധന നടത്തി ശരിയായ വിധത്തിലുള്ള കോർട്ടുഫീസ് വന്നിട്ടുണ്ടോ എന്നറിയുന്നതിന് ചില ഉദ്യോഗസ്ഥന്മാരെ നിയമിച്ചിട്ടുണ്ട്. അവർക്കുതന്നെ കേസിന് കാലതാമസം വരുത്താതിരിക്കാൻ വേണ്ട പരിശോധന നടത്താൻ സാധിക്കുമെങ്കിൽ അതു വളരെ നന്നായിരിക്കും.

ജന്മികുടിയാൻ ആക്റ്റു സംബന്ധിച്ച് കോടതികളിൽ ഉണ്ടാകുന്നവിധികളിൽ കോടതിയെ തനിച്ച് ഞാൻ കുറ്റം പറയുന്നില്ല. എ

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ന്നെന്നാൽ നിയമത്തിന്റെ അവ്യക്തത കോടതികളേയും വക്കീലന്മാരെയും ഒട്ടധികം വിമ്മിഷ്ടപ്പെടുത്തുന്നുണ്ട്. എന്നാൽ നിയമം വ്യക്തമായിട്ടുള്ള സംഗതികളിൽ അതിനു വിരുദ്ധമായി വിധികല്പിക്കുന്നതിന്റെ രഹസ്യം മനസ്സിലാകുന്നില്ല. നിയമം വ്യാഖ്യമല്ലാത്ത അവസരത്തിൽ ലാ പായിന്റിനെ അടിസ്ഥാനമാക്കാം. ഉദാഹരണം ഫ ഠ വ-ൽ ആണ് ജന്മിക്കരം നിശ്ചയിച്ചതു്. ഫ ഠ വ-നു മുൻപുള്ള മിച്ചവാരത്തിനു ജന്മിക്കരം നെല്ലിന്റെ റേറ്റ് സ്വീകരിക്കുന്നു. ഈ വിധികഠം അനീതിയാണു്. ആകയാൽ ഈ വക സംഗതികഠംക്കു ഒരു പരിഹാരം ഉണ്ടാക്കേണ്ടതു് അത്യാവശ്യമായിരിക്കുന്നു.

Mr. M. Sultan Muhiadheen : നിയമവിളംബത്തെപ്പറ്റി എനിക്കു് രണ്ടുവാക്കു് പറയുവാനുണ്ടു്. നിയമവിളംബം ഉണ്ടാകുന്നതു് ജുഡിഷ്യൽ ഉദ്യോഗസ്ഥന്മാരുടെ ശേഷിക്കുറവുകൊണ്ടാണെന്നുള്ള അർത്ഥത്തിൽ ഇവിടെ ചിലർ പ്രസ്താവിക്കുകയുണ്ടായി. ക്രടാതെ ജുഡിഷ്യൽ ഡിപ്പാർട്ടുമെന്റിലെ മുൻസിഫന്മാരായി ക്ലാർക്കന്മാരുടെ ഇടയിൽനിന്നും ആളുകളെ എടുക്കുകയല്ലാതെ നേരിട്ടു് ബാറിൽനിന്നും ആളുകളെ എടുത്തുക്രടാ എന്നു് എന്റെ ഒരു സ്നേഹിതൻ ഇവിടെ അഭിപ്രായപ്പെട്ടു. ആ അഭിപ്രായത്തോടു് എനിക്കു യോജിക്കുവാൻ നിവൃത്തിയില്ല. ബാറിൽ നിന്നും റിക്രൂട്ടു ചെയ്യുന്ന ഉദ്യോഗസ്ഥന്മാരാണു് സാധാരണയായി മിടുക്കന്മാരായി കാണപ്പെടുന്നതു്. അങ്ങിനെയുള്ള ഉദ്യോഗസ്ഥന്മാർ കേസുകഠം കുടിശികക്രടാതെ തീർത്തുവരുന്നതുണ്ടു് ജില്ലാജഡ്ജിയായും മജിസ്ട്രേട്ടായും മുൻസിപ്പായും ബാറിൽനിന്നും എടുക്കുന്നവർ വളരെ മിടുക്കന്മാരായിട്ടാണു് കാണപ്പെടുന്നതു്. ബാറിൽ നിന്നും ഇപ്പോഠം റിക്രൂട്ടുചെയ്ത ഒരു മിസ്റ്റർ ടി. എ. പരമേശ്വരയ്യർ അഡിഷണൽ മുൻസിഫ് ആയി തക്കലെ ഇരിക്കുന്നുണ്ടു്. അദ്ദേഹം പത്തുപതിനഞ്ചുവർഷം സർവീസായ മുനിസിഫിന്മാരെക്കാഠം കേസുകഠം കുടിശികക്രടാതെ തീർക്കുന്ന വിഷയത്തിലും മറ്റും സമർത്ഥനായി കാണുന്നുണ്ടു്. കേസുകഠം വളരെ ജാഗ്രതയോടുകൂടി തീർക്കുകയും കോർട്ടുസീൽബന്തികളെക്കൊണ്ടു് ജോലികഠം ശരിയായി നടത്തിക്കുകയും ചെയ്യുവരുന്നുണ്ടു്. അതുകൊണ്ടു് മേലാലും ജുഡിഷ്യൽ ഡിപ്പാർട്ടുമെന്റിലേക്കു് ബാറിൽ നിന്നും ആളുകളെ തിരഞ്ഞെടുത്തു് ഡിപ്പാർട്ടുമെന്റിനെ കായക്ഷമമാക്കിത്തീർക്കണമെന്നപേക്ഷിക്കുന്നു.

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Mr. G. Narayana Aiyar: Sir, I support the demand. In this connection, I thank you, Sir, for the interest that you have taken to see that the proverbial law's delays are removed. I doubt very much whether it will be possible completely to do away with laws delays since the same is not peculiar to our courts alone. We have heard that there are cases of 25 and 30 years' duration pending in the original courts in British India. It certainly depends upon the nature of the litigation. All the same, I would say that there are delays in our courts also. Any delay in the disposal of cases means the delay in meting out justice. We have to see what are the grounds for this delay. The remarks passed by the Government in the Administration Report of the Department of Civil Justice for the year 1113 deserve consideration. So far as the out-turn of the work of the Munsiffs are concerned, it is said that their work was on the whole very poor; and so far as the out-turn of the work of the District Judges are concerned, it is said that it is unsatisfactory. It is not possible to say anything further. It is seen from the Administration Report that the Courts do not give a statement of the number of pending cases which are more than two or three years old. This is self-explanatory. I am able to assert that there are cases of more than five or six years' duration. These are simple money suits of more than 4 and 5 years duration pending and such cases can be found on the file of many of the courts.

We have to see what are the reasons for this delay in the disposal of cases. A general look at the Administration Report will show that the number of Munsiffs and Judges are the same, that there has been no reduction in their number during the year and that the number of cases on their files and filed during the year have gone down by more than 7000. The number of disposals have also gone down. What does that go to show? It goes to show that the officers now in service are not able to cope with the work. This is due to two causes. The first cause is that recruitment is not made properly. Efficiency ought to be the sole test in recruitment. For the satisfactory disposal of cases in the original courts, a good experience in the original courts is absolutely necessary. What we find in our courts is that recruitments are being direct from the High Court Bar. In the Madras High Courts, Judges do exercise original jurisdiction and High Court Vakils have scope for practising in the original side also even if they are confined to the High Courts alone. There the applicants for Munsiff's posts are also selected on the recommendation of the judges or munsiffs who alone can be expected to know exactly what the nature of the original practice of the applicants are. Practice in the original courts has a very great effect. It is only those who practise in the original courts that can understand human tendency and nature in all its aspects, possibilities and probabilities. They may be able to

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Mr. G. Narayana [Aiyar.]

understand facts and figures more easily than those who stick up to appellate work, because the mofussil practitioners have to move very freely with various sorts of people. Sir, I submit one of the causes for the inefficiency of most of the judicial officers and the consequential delay in the disposal of cases is the want of care in the matter of selection of Munsiffs.

Mr. James Fletcher: Is the member aware that there are original courts in Trivandrum also?

Mr. G. Narayana Aiyar: I am aware that there are original courts in Trivandrum. But the appointing judges have no occasion to ascertain how these people fare when they go to the original court. Most of the High Court Vakils appear only in the appellate court. The method of preparation for appellate work is very different from the nature of the work in the original side. But the work in the original court is as a rule very difficult and complicated and there is no comparison between the two. Sir, the system of recruitment to Munsiffs has to be adopted with reference to the practice on the original side and members of the Bar practising on the origiral side have also to be given sufficient opportunities to come out as Munsiffs. The method of recruitment followed in Madras may with advantage be adopted here also. The Munsiffs and District Judges may be directed to send a list of Vakils practising before them who could be appointed as Munsiffs. The High Court may add to the list. The list may be prepared as often as is necessary and the selections may be made from among of the members included in the list. This will also relieve overcrowding in the High Court and satisfy the claims of competent Vakils practising in the mofussil courts.

Mr. James Fletcher: Is the member aware that one of the latest recruitments to the Munsiff's post was from the Kottayam Bar and not from the Trivandrum Bar?

Mr. G. Narayana Aiyar: I submit that there may be very rare instances of such recruitment. What I wish to bring to the notice of Government is that that should be the order of the day.

Mr. T. Krishna Pillai: May I know, Sir, whether the High Court Judges are debarred from making the necessary enquiries of the candidate selected to the post of Munsiff or District Judge?

Mr. G. Narayana Aiyar: They are not. But what is the scope of the enquiry? Do they know personally whether a proposed man can be a success if he goes to the original side? They cannot. So, if the practice that exists elsewhere is followed here, it will tend to the betterment of the administration of justice.

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Another circumstance which contributes to the law's delays and which I wish to bring to the notice of Government is that the Munsiffs, although most of them are exerting their best, have to devote on an average two hours every day to attend to departmental work. In the British Indian courts such things are being done by the head ministerial officer. There is no sanctity attached to our Munsiffs alone attending to such work. The time that is spent for attending to such work may safely be utilised in the disposal of more cases.

In this connection, I thank you, Sir, for the step taken in the appointment of Court Fee Inspcetors. They have been able to detect a good lot of leakage of revenue. They are all competent men. If they are given the power to supervise the work of the ministerial staff, I think that will give much relief to the Munsiffs and they can utilise that time also for the dispcsal of additional cases. I understand the rights and powers of these Inspectors have not been properly defined. I think that in British India, they are the final authority so far as taxation is concerned. But our Inspectors waver whether they have to address Government or the High Court in case of doubt or whether they can pass final orders. I was able to meet one of them and I was told that there are leakages to the extent of about Rs. 1,000 in some courts. Certainly, that will be a source of much income to the Government. The work that they are doing is very useful and they have to be retained. With these worlds I support the Demand.

Mr. N. Krishna Aiyar : Sir, in spite of the very high encomium paid to the judicial officers in Travancore, the law's delays of this country have become proverbial and do remain a fact. It is not uncommon to find even a pro-note suit being delayed for over three years, not to speak of other original suits in the District and Munsiff's Courts. Even in appellate courts, appeals of over 2 and 3 years' duration are also found without disposal in very large numbers. As regards efficiency, I disrgree with Mr. Ananthasiva Iyer, in his view that, the recruitment to the judiciary must be made from the department rather than from the Bar. As a rule and as a matter of practice, it has been found that among the members of the judiciary, those taken from the Bar have proved to be generally more efficient than most of the members who have been taken from the Department, and it is natural too. I agree with Mr. Narayana Iyer in stating that a good proportion of the Munsiffs should be recruited from the mofussil Bar also where there are a good number of advocates practising in the original side and who are quite competent, if not better, than advocates who practise in the appellate courts, in the matter of original work.

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[Mr. N. Krishna Aiyar.]

Law's delays are contributed to partly by the inefficiency of some of the Munsiffs who might do better work in other departments.

The cumbersome procedure in the matter of execution obtaining in the Judicial department is also responsible for the delay to a certain extent. The delays in execution have now become much more than in prior years because of certain additional facilities which are being granted to debtors. These apparent facilities and delay really work great hardship both on the decree-holder as well as on the debtor. It works as hardship on the decree-holder, in that he is not able to reap the fruits of his decree, within a reasonable time, and in some cases during his life time even. That is the serious aspect of the matter. It is equally a great hardship on the decree-debtor in that, ordinarily, a decree could be satisfied by the sale of some of his properties. But by delaying the execution, the decree amount swells up so that by the time the properties come up for sale, the decree could not be satisfied even by the sale of all his properties, so much so, some decree balances are left unsatisfied. It would therefore be incumbent on the Government to introduce proper measures for speedy execution of decrees and for putting into operation proper methods for the disposal of original suits as well as appeals and other proceedings. As an instance, it was only last month that a decree of 1084 which I executed, culminated in sale, after 30 years' struggle. Such instances are not uncommon. Number of notices in connection with the execution have to be served on the parties concerned, so much so, the decree-holders have to depend on the mercy of process servers about whom I have to speak one or two words. A reform in this direction would go a long way to minimise law's delays in our courts.

When I come to speak about the process servers and others in the lower ranks of the Judicial Department, including Amins, and clerks, I have to say that corruption is rampant. It is very difficult to get process servers to serve processes properly without extra expense. Unless he is paid decently, *i. e.*, something more than he would get by way of batta, summons or notices will not be served by him in the proper manner. The moment he gets the summons or notice, he goes to the party, and threatens him directly or through the advocates, that if he is not paid anything, process will be returned unserved. And in the matter of serving different notices, there is a gradation of rites levied by the process peons. Different rates have been fixed by the process servers according to the importance and urgency of the notices, gradually rising from summons to notice of permission to bid and notice of delivery of property. There are occasions when even lump sums are obtained

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by the Amins for effecting delivery of properties It is within the capacity of the process server to put off the execution of the decree for a long time. To see that nothing like that happens endlessly, the decree holder, satisfies all the demands of the process servers from the commencement of the execution to the culmination of the sale and delivery of property. This has become the practice with the process servers and very often they go unpunished. Even for fixing the value of the properties proclaimed for sale, they make very high demands, sometimes to the prejudice of the decree holder and sometimes to the prejudiciary the judgment debtor. My submission in this connection is that a committee of enquiry should be appointed to eradicate corruption from the subordinate ranks of the judiciary and also a special system of C. I. D. should be constituted empowering them to go into the details of the matter so that they may set right the evil from the very bottom and that at a very early date.

Mr. Puthupally S. Krishna Pillai : Sir, various allegation by some honourable members condemning the department, and others praising it, have been made. I am not now concerned with those gentlemen who had only words of praise to offer. There are a few observations which you will permit me, Sir, to take the earliest opportunity to controvene in the strongest and most forcible language I can command. The old stunt adopted by some of our politicians of condemning the Judiciary and pointing out that, at least, the mofussil judiciary, is not independent but that it is at the command of Government, is still lingering in certain quarters. But for that suruival. I am quite certain that no honourable member of this House, or for that matter any representative of the public, will have an occasion or justification for stating that our judiciary, especially the mofussil Judiciary, is not independant. It has been with his characteristic humour pointed out by one honourable member that he has seen one or two judges pathetically looking at advocate when delivering judgments. It is only a caricature. I am quite certain that there could not have been any occasion for any judge, in any of the courts of the State, to look pathetically at an advocate unless it be that the advocate himself has elicited the sympathy. Probably, there may be advocates who might have provoked sympathetic looks from the judges. Apart from that, no man in the state can point out and say."there is a judge who is afraid of the executive and who is not competent to discharge his judicial functions." Sir, I deny that charge.

Now coming to another point, it has been pointed out that there has been delay in the disposal of cases. That is not a statement new to Travancore alone. There *has been* delay in British

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[Mr. Puthupally S. Krishna Pillai.]

India and there *is* delay in British India. Similarily, there has been delay in Travancore and tnere *is* delay in Travancore. It is nothing particular to Travancore. Everywhere in India, there are laws delays. There are people who applaud delay; there are others who condemn it It is not my object, Sir, to speak anything in support of the delay that has been adverted to here. But no doubt there is delay; that is conceded. And the Government have been, from time to time, investigating into the causes of the delays in the disposal of cases and have been trying to remove these causes one by one. For that purpose, a laws delays Commissioner was appointed. His report was scrutinised. Every reccommendation made by the Commissioner was considered and some were adopted. A large number of Bills on various matters was found necessary. For this purpose, work was taken in hand and is being vigrously proceeded with. A re-allocation in the jurisdiction of courts was found necessary. A special Judge was appointed to look into that question. A reorganisation of the judiciary was also taken in hand. Some modification of rules was found necessary especially in the case of payment of process fee and the name of service by process servers and also in the filing of plaints and written statements. That has now even practically done. Therefore, it will be seen that by various means Government are trying to minimine laws delays as far as possible. It is the Government's view that the Department made headway in the matter of minimising laws delays. It is hoped that further progress will be made in this matter, and the litigent public in future will not have much to complain about laws delays in Travancore. But, it is not a matter which could be immediately achieved. The Government hope to achieve that, without any delay, at least in the near future. Now, there are two opinions expressed, one being that the execution is being delayed and that even though the creditors have obtained the decrees, have not been able to reap the benefit of the decrees. There is another section which says, that decree and interest on decree amounts are accumulating to such an extent that it has become impossible to discharge the burden. Some people want a general moratorium to be declared so that, all executions may be stayed Any way there are two opinions in the matter, namely, the capitalist interest complaining that money is not realised and the debtor interests protesting that they are not able to pay. Between these two, Government have to arbitrate. That is very difficult and in-convenient position. But, the Government have not hestitated undertake that serious work. A Committee has been appointed to go into thequestion and to make recommendation as to how both the debtor and the creditor demand could be equitably satisfied. It is hoped that Government will be able to satisfactorily solve that problem.

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As regards delay in execution, I am sure, the honourable members will not have anything serious to say about this when they meet next year during budget debate. About corruption in the department, it was said that, corruption exists in the subordinate ranks of the judiciary. I heard the same thing said in the Assembly. But there may be corruption as was painted out here and I am not in a position to deny that categorically. All the process peons in the Judicial Department may not be paragons of virrue, and I cannot say that they will not receive a pie, even if it was offered to them. Among them there may be black sheep just as there are black sheep in other Government departments. Very interesting disclosures were made in the other Chamber, and my friend here has stated that there are some process peons who have even fixed a scale of fee for serving different classes of processess. The High Court is keeping a zealous watch over the ministerial staff and any case of corruption that has been brought to its notice has not escaped punishment. I can assert and the honourable members may feel assured that not even a single case of corruption of even the Process Peons that may be brought to the notice of the Judiciary or the High Court will escape punishment.

President : The question before the House is that Government be granted a sum of Rs. 11,25,100 under Demand III—Administration of Justice.

The Demand was put and carried and the grand was made.

DEMAND IV—EDUCATION DEPARTMENT EXCLUDING TRAVANCORE UNIVERSITY.

Mr. G. Gopala Menon : Sir, I rise to move for a a grant not exceeding Rs. 44,54,546 under Demand IV—Education Department excluding Travancore University.

Mr. A. Easwara Pillai (*Kottarakara and Pathanapuram cum Shencottah*) : Sir, I support the demand. In doing so, I wish to offer certain remarks regarding the administration of this department. We all know that the economic depression has greatly affected the economic condition of our people. People are striving very hard to find means of satisfying their primary needs. When penury and starvation prevail in the country, would it be possible to find the means for satisfying our cultural wants ? Our Government have taken sympathetic action to obviate economic difficulties of the people of the State. But I am sorry to observe that the reduction of the cost of education in the High Schools, Government have not taken any step as yet. The cost of education in the English Schools is very high and people are not in a position to send

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